

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

GARY G. HAMPTON, JR.,

Plaintiff,

v.

E. WELSCH,

Defendant.

No. 2:20-CV-1001-KJM-DMC-P

FINDINGS AND RECOMMENDATIONS

Plaintiff, a prisoner proceeding pro se, brings this civil rights action under 42 U.S.C. § 1983. Pending before the Court is Defendant's motion to dismiss, ECF No. 29. Plaintiff has not filed an opposition.

Defendant argues that this action should be dismissed for failure to state a claim upon which relief can be granted. See ECF No. 29-1. After the time to respond to Defendant's motion passed, the Court issued a minute order advising that the failure to oppose the motion could be construed as consent to the relief requested. See ECF No. 31. The minute order provided Plaintiff an additional 30 days within which to file an opposition. See id. To date Plaintiff has not opposed Defendant's motion and the Court construes the lack of any opposition as Plaintiff's consent to the relief requested by Defendant. See Local Rule 239(c), (l).

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1 Based on the foregoing, the undersigned recommends that Defendant's unopposed
2 motion to dismiss, EF No. 29, be granted.

3 These findings and recommendations are submitted to the United States District
4 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days
5 after being served with these findings and recommendations, any party may file written objections
6 with the Court. Responses to objections shall be filed within 14 days after service of objections.
7 Failure to file objections within the specified time may waive the right to appeal. See Martinez v.
8 Ylst, 951 F.2d 1153 (9th Cir. 1991).

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10 Dated: August 16, 2022



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE